



1631

Image

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John J. KILBANE, II

Serial No.: 09/960,698

Filing Date: 21 September 2001

Title: APPLICATION OF BIOINFORMATICS FOR
DIRECT STUDY OF UNCULTURABLE
MICROORGANISMS

Group No.: 1631

Examiner:
Marschel, Ardin H.

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is being submitted in response to the Office Action mailed 03 October 2003 whereby the Examiner has set forth two species election requirements.

With respect to the first species election requirement, the Examiner indicates that the subject application contains claims directed to the following two patentably distinct species of the claimed invention:

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

16 October 2003

16 Oct. 2003
Date

Mark P. Fung
Signature

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Species A: No differential dye staining of microorganisms

Species B: Differential dye staining of microorganisms is required

Applicant has been required to elect a single disclosed species for prosecution on the merits to which the claims will be restricted if no generic claim is finally held to be allowable. Currently, Claims 1-6 are indicated by the Examiner to be generic with respect to these species.

In response to this election requirement, Applicant elects to prosecute those claims directed to Species B, namely the requirement of differential staining of microorganisms. Applicant respectfully urges that Claims 1-6, 9, 10, 15 and 17-21 are readable thereon.

With respect to the second species election requirement, the Examiner indicates that the subject application contains claims directed to the following two patentably distinct species of the claimed invention:

Species C: No microorganism growth required for microorganism to be identified

Species D: Microorganism growth is required for microorganism to be identified

Applicant has been required to elect a single disclosed species of the above identified species for prosecution on the merits to which the claims will be restricted if no

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generic claim is finally held to be allowable. Currently, Claims 1-17 and 19-21 are indicated by the Examiner to be generic with respect to these species.

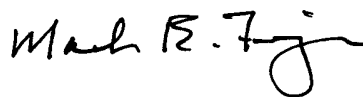
In response to this election requirement, Applicant elects to prosecute those claims directed to Species C, namely no microorganism growth required for microorganism to be identified. Applicant respectfully urges that Claims 1-17 and 19-21 are readable thereon.

Conclusion

Applicant intends to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicant has not addressed in this response, Applicant urges the Examiner to contact the undersigned.

Applicant sincerely believes that this patent application is now in condition for examination and, thus, respectfully requests early allowance.

Respectfully submitted,



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